



CITY OF BRUNSWICK

1 W. Potomac Street • Brunswick, Maryland 21716 • (301) 834-7500

Brunswick Board of Appeals Minutes March 22, 2007

Commission Members Present: Chair Dawn Page, Secretary Wayne Hawes, and Barbara Baker, Alternate.

Mayor & Council Present: None.

Staff Present: Development Review Planner Jeff Love and City Attorney David Severn.

Chair Page called the meeting to order at 7:00 PM.

Minutes:

The minutes for the February 22, 2007 meeting were reviewed and approved, (motion by Ms. Baker and seconded by Mr. Hawes, passed unanimously).

Chair: Mr. Love reviewed the Agenda Package.

Old Business:

Zoning – Variance

Approval

Request for the Variance from the Height Restriction for accessory to the use and expansion of a Non-Conforming Structure to construct Athletic Field Lights, located on the south side of Cummings Drive, east of Ninth Avenue & Point of Rocks Road (Tax Map 202, Parcel 1675). Zoned OS, BR-BOA-07-01 V (Continued from the February 22, 2007 Hearing).

Chairman swore in those wishing to testify on the case.

Staff Presentation

Mr. Love read the case file into the record.

Mr. Love presented the Data Sheet (Copy Attached) to include the following requested Variances: Expansion of a Non-conforming Principal Structure; 30' Variance from the Required 40' Maximum Height Restriction for Structures in the Open Space District to construct Athletic Field Lights.

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At the February 22, 2007 Hearing, the Board continued the variance requests in order to receive additional information and to conduct a Field Trip on March 20, 2007 to review a baseball field in Leesburg, VA that currently uses the lights proposed by the lessee. The Case was re-advertised, as suggested by the City Attorney, to include the request for the expansion of a non-conforming structure. The Applicant provided an additional supplemental package, which was received on March 7, 2007.

Mr. Love stated that if the Board is considering the approval of some variance, the following conditions should be considered for that approval:

- The Applicant/Lessee should provide evidence and justify that the fall area of the proposed Light Poles will not substantially impact neighboring properties or structures.
- The Applicant/Lessee must demonstrate to Staff and Planning Commission Approval that adjoining properties will not be adversely impacted by spillover from the proposed Lights.
- Planning Commission review of the Site Plan for compliance and mitigation of the Dark Sky Principle, which is their policy.
- The hours of operation that the lights could be on should be clarified.
- The days and months that the lights could be on must be clarified.
- What events will utilize the lights must be clarified.
- Any items that the BOA wants the Planning Commission to specifically review with the Site Plan.
- The Applicant/Lessee is bound by their testimony from the February 22, 2007 Hearing and the March 22, 2007 Hearing.

Under Article 24.3,C, a variance may be granted provided that the need justifying the variance is substantial and immediate and not merely for the convenience of the applicant or to increase the dollar value of a property. The applicant must prove that the strict application of the regulation creates a practical difficulty, or specifically that:

1. Strict compliance with the regulations would prevent the use of the property for a permitted purpose or would render conformance unnecessarily burdensome.
2. A lesser variance than that applied for would not provide adequate relief.
3. Granting the variance would not contradict the purpose and intent of the Zoning Ordinance or compromise the public interest.

Under Article 24.8,B,3, the Board of Appeals shall not grant a variance unless and until the following conditions are satisfied:

- a. That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same district; and

- b. The literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of this chapter;
- c. That the special conditions and circumstances do not result from the actions of the applicant; and
- d. That granting the variance will not confer on the applicant any special privilege that is denied by this chapter to other lands or structures in the same district; and
- e. A public hearing has been held;
- f. That the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Article 24.3, F: To Authorize the expansion of, or addition to, a non-conforming principal or accessory building or structure, taking into consideration the nature of the neighborhood, the effect of the proposed expansion on nearby property owners, and the power of the Board of Appeals to grant variances from height and setback restrictions in accordance with the applicable sections of this ordinance pertaining to variances. Reasonable conditions may be imposed for the purpose of protecting the public interest.

Applicant:

Mr. Keith Tucker, Railroaders Little League (Lessee), and Mr. Bob Zoeller, Musco Lighting Systems, presented their case, and provided answers to some of Data Sheet concerns and Board questions from the February 22, 2007 Hearing.

They provided the Board with additional exhibits to include the League's insurance policy and 2007 league schedule.

Additionally, Mr. Zoeller presented exhibits regarding lighting fixture technology, typical light structures and fixtures that would be used, and an illumination grid showing the spill pattern of the proposed lights on the existing field.

They also answered Board questions with regard to the justification for the request and the applications.

Mr. Hawes asked for clarification of the months, days, and times when the lights would be in use.

Testimony In Support:

Kim Cable, 807 Fourth Ave, spoke in general support of the proposal.

Testimony In Opposition: None.

Additional Relevant Testimony:

Mr. Severn asked questions of Messers. Tucker and Zoeller to clarify some of the points in their testimony and application.

Rebuttal: None.

Decision

Mr. Hawes made a motion to approve the requested 30 ft. variance from the required 40 ft. maximum height for structures in the Open Space District:

After considering at this public hearing all of the evidence and testimony presented on this Application for a Variance including the Staff Report and Governmental Agency Comments, I move that Application #BR-BOA-07-01-V for a Height Variance of 30 feet from the 40 foot maximum height requirement of Article 8, Section 8.5 of the City of Brunswick Zoning Ordinance for proposed Athletic Field Lights at 100A Cummings Drive be approved based on the following findings of fact:

1. Special conditions and circumstances exist which are peculiar to the Property which are not applicable to the other lands or structures in the same zoning district.
2. The literal interpretation of the Zoning Ordinance will deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.
3. The special conditions and circumstances, which exist here are not the result of actions of the Applicant.
4. Granting the requested Variance will not confer on the Applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.
5. The granting of the Variance will be in harmony and will not conflict with the purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare or compromise the public interest.
6. The Variance requested is the minimum necessary to afford the adequate relief that the Applicant needs.
7. The need justifying the Variance is substantial and immediate and not merely for the convenience of the Applicant to increase the dollar value of the Property and the strict application of the requirements of the Zoning Ordinance from which the Variance is requested creates a practical difficulty for the Applicant.

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8. Requiring the Applicant's strict compliance with the Zoning Ordinance regulations will render such conformance unnecessarily burdensome.

;Mrs. Baker seconded the motion.

VOTE: Yea 3 Nay 0

Mr. Hawes made a motion to approve the variance for the Expansion of a Non-Conforming Structure:

After considering at this public hearing all of the evidence and testimony presented on this Application for a Variance including the Staff Report and Governmental Agency Comments, I move that Application #BR-BOA-07-01-V for the expansion of a non-conforming structure as provided in Article 5, Section 5.4 and Article 24, Section 24.3(F) the City of Brunswick Zoning Ordinance for proposed Athletic Field Lights at 100A Cummings Drive be approved based on the following findings of fact:

1. Special conditions and circumstances exist which are peculiar to the Property which are not applicable to the other lands or structures in the same zoning district.
2. The literal interpretation of the Zoning Ordinance will deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.
3. The special conditions and circumstances, which exist here are not the result of actions of the Applicant.
4. Granting the requested Variance will not confer on the Applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.
5. The granting of the Variance will be in harmony and will not conflict with the purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare or compromise the public interest.
6. The Variance requested is the minimum necessary to afford the adequate relief that the Applicant needs.
7. The need justifying the Variance is substantial and immediate and not merely for the convenience of the Applicant to increase the dollar value of the Property and the strict application of the requirements of the Zoning Ordinance from which the Variance is requested creates a practical difficulty for the Applicant.

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8. Requiring the Applicant's strict compliance with the Zoning Ordinance regulations will render such conformance unnecessarily burdensome; and

Article 24.3, F: To Authorize the expansion of, or addition to, a non-conforming principal or accessory building or structure, taking into consideration the nature of the neighborhood, the effect of the proposed expansion on nearby property owners, and the power of the Board of Appeals to grant variances from height and setback restrictions in accordance with the applicable sections of this ordinance pertaining to variances;

;Mrs. Baker seconded the motion.

VOTE: Yea 3 Nay 0

Mr. Hawes made a motion to amend his motions to include:

1. The Applicant and its representatives are bound by the testimony and exhibits given at the February 22, 2007 and at tonight's hearings.
2. The Lights are to be used only from the beginning of March through the end of October at a time not to exceed 9:30 PM.

;Mrs. Baker seconded the motion.

VOTE: Yea 3 Nay 0

New Business: None.

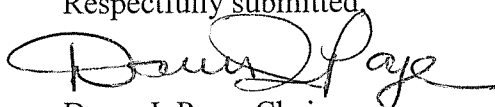
Board Matters:

Mr. Love indicated that there would be a meeting April 26, 2007 for the resolution of tonight's case.

Adjournment:

The meeting was adjourned at: 8:00 PM.

Respectfully submitted,



Dawn J. Page, Chair
Brunswick Board of Appeals